**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPLICATION NO.4677 OF 2005**

Lalso Vasantgiri Gosavi ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.R.B.Paranjape for the Applicant
Mr.K.V.Saste,A.P.P. for State

**CORAM: A.S.OKA,J.**
**DATE : AUGUST 8,2005**

**P.C.:**

1. Heard Advocate for the Applicant and the learned A.P.P. for State. Initially an offence was registered against the Applicant under section 326 of the Indian Penal Code. Later on Section 307 was applied and after the demise of the victim, Section 302 of the I.P.C. has been invoked. From the statements of Eye witnesses it appears that there was a dispute between the Applicant and the deceased. As a result of the said dispute, as per the consistent version recorded in the statement of the Eye witnesses, only one blow of stick was given by the Applicant on the head of the deceased who was stated to be 70 years old.

2. The learned Advocate for the Applicant submitted that there was obviously no intention on the part of the Applicant to kill the deceased. He submitted that initially Section 326 of I.P.C. was applied. He stated that charge sheet has already been filed and the Applicant is in custody for last

more than four months.

4. The learned A.P.P. pointed out that injury caused by the Applicant on the head of the deceased is the cause of the death of the deceased as disclosed from the P.M.Notes. He submitted that considering the age of the deceased, even one blow was fatal.

5. I have considered the submissions. It appears that initially Section 326 of I.P.C. and later on Section 302 was applied. It is true that the P.M.Notes disclose the cause of death as fracture of skull with subdural haemorrhage. Perusal of the Item No.17 of the P.M.Notes shows that there is a contusion on head. There are bruises and abrasions. It is recorded that there is an incised wound which is caused by a procedure carried by the surgeon after the deceased was admitted to the hospital. The incident has admittedly taken place as a fallout of a dispute over a Tamrind tree when the deceased objected to the Applicant picking Tamrind fruits. In the dispute, only one blow of stick is allegedly given by the Applicant on the head of the deceased. There is no allegation regarding use of any weapon. At this stage, it appears that applicability of Section 302 is doubtful. There are no criminal antecedents of the Applicant. Considering the fact that the investigation is completed and that the Applicant is in custody for last more than four months, a case is made out

for enlarging the Applicant on bail subject to stringent conditions.

6. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.50 of 2005 registered with Umbraj Police Station, District Satara subject to furnishing a personal bond of Rs.20,000/-(Rupees twenty thousand) with one or two sureties in the like amount.

ii) The bail is granted subject to condition that till conclusion of the trial the Applicant will not enter the area falling within the jurisdiction of Umbraj Police Station, Taluka Karad, District Satara.

iii) The order granting bail will be given effect to only after the Applicant furnishes to the Investigating Officer his detail address where the Applicant proposes to stay till the conclusion of the trial. The Applicant will report to the local police station once in a week.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

**JUDGE**